

REPORT TO: Health Policy & Performance Board
DATE: 20th September 2016
REPORTING OFFICER: Director of Adult Social Services
PORTFOLIO: Health & Wellbeing
SUBJECT: Deprivation of Liberty Safeguards (DoLS)
WARD(S) Borough-wide

1.0 PURPOSE OF THE REPORT

1.1 To update the Board and highlight key issues with respect to Deprivation of Liberty Safeguards (DoLS) and the refresh of the Mental Capacity Act 2005 policy.

2.0 RECOMMENDATION: That:

The report be noted and the refresh of the Mental Capacity Act 2005, Policy, Procedure and Practice' document

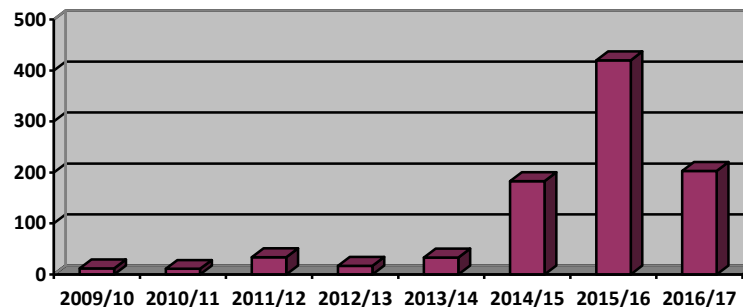
3.0 SUPPORTING INFORMATION

3.1 The Deprivation of Liberty Safeguards (DoLS) are one aspect of the Mental Capacity Act (2005). The Safeguards are to ensure that people in care homes and hospitals are cared for in a way that does not inappropriately restrict their freedom, and if necessary restrictions are only applied in a safe and correct way, and that this is only done when it is in the best interests of the person and there is no other way to provide appropriate care.

3.2 On 19th March 2014 a Supreme Court ruling P v Cheshire West and Chester and P and Q v Surrey Council was significant in the determination of whether arrangements made for the care and/or treatment of an individual lacking capacity to consent to those arrangements amount to a deprivation of liberty and introduced a new 'acid test'. The implication being that all people who do not have capacity and are not free to leave their environment need to be supported under the framework of the DoLS.

3.3 The judgment is important as it holds that a DoL can occur in a domestic setting where the State is responsible for imposing those arrangements. This will include a placement in a supported living accommodation in the community. Hence, where there is, or is likely to be, a deprivation of liberty in such placements that must be authorised by the Court of Protection.

3.4 An action plan was developed to address and co-ordinate the Halton response to the judgement. The Safeguarding Unit co-ordinates and manages the DoLS assessments and reviews and acts on behalf of the Supervisory Body (The Local Authority). The team members include a DoLS co-ordinator and two dedicated DoLS assessors. The team is supported by a pool of 18 Best Interest Assessors (BIA) drawn from care managers, 5 of whom have completed their training within the last 3 months. There is an ongoing training programme established to ensure that all appropriate staff are trained to undertake this role going forward. Additionally, there is now a DoLS administrator in place to ensure a co-ordinated response to all requests, and the effective dissemination of the outcomes of assessments to all relevant parties.



3.5 In the period April 2015 to the end of March 2016 the Local Authority received 420+ referrals. Since April 1st 2016 the Local Authority has received 203 applications for Deprivation of Liberty Authorisations, compared to 162 for the same period last year.

3.6 **Mental Capacity Act 2005**

The changes to this policy have been made as part of a scheduled review of the document. As with all policies being revised this involved analysis of legislative changes, current best practice and operational requirements.

3.7 What has changed:

- Greater emphasis on safeguarding.
- Re-structuring of content to aid understanding and application in practice (reducing the content by eleven pages).
- Elimination of duplication (as above, leading to a more concise document)
- Reference to the Care Act 2014, pertinent case law and Government commissioned enquiry.
- Addition of information around the duty of candour and the right to dignity.
- Inclusion of information on fluctuating capacity.
- Clearer communication on governance arrangements, data

- management and performance needs.
- Distinct development pathway for practitioners.
- Simplified flowcharts of process.
- Details of assessments document which match those used in practice.
- The addition of a 'Quick Guide' reference document in the appendices for ease of understanding.

4.0 **POLICY IMPLICATIONS**

4.1 The policy highlighted will assure current legislation, case law and practice is documented appropriately enabling consistent application.

5.0 **FINANCIAL IMPLICATIONS**

5.1 None identified.

6.0 **IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

6.1 **Children & Young People in Halton**

Safeguarding Adults Board (SAB) membership includes a Manager from the People Directorate, as a link to the Local Safeguarding Children Board. Halton Safeguarding Children Board membership includes adult social care representation. Joint protocols exist between Council services for adults and children. The SAB chair and sub-group chairs ensure a strong interface between, for example, Safeguarding Adults, Safeguarding Children, Domestic Abuse, Hate Crime, Community Safety, Personalisation, Mental Capacity & Deprivation of Liberty Safeguards.

6.2 **Employment, Learning & Skills in Halton**

None identified.

6.3 **A Healthy Halton**

The safeguarding of adults whose circumstances make them vulnerable to abuse is fundamental to their health and well-being. People are likely to be more vulnerable when they experience ill health.

6.4 **A Safer Halton**

None identified.

6.5 **Halton's Urban Renewal**

None identified.

7.0 **RISK ANALYSIS**

7.1 Failure to consider and address the Statutory duty of the Local Authority could expose individuals to abuse and the Council as the Statutory Body vulnerable to complaint, criticism, and potential litigation.

8.0 **EQUALITY AND DIVERSITY ISSUES**

8.1 It is essential that the Council addresses issues of equality, in particular those regarding age, disability, gender, sexuality, race, culture and religious belief, when considering its safeguarding policies and plans. Policies and procedures relating to Safeguarding Adults are impact assessed with regard to equality.

9.0 **LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

None under the meaning of the Act